

No. 11(112)-3Lab-78/8737.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the Workman and the management of M/s, Punjab Industries, Faridabad:—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 282 of 1978

between

SHRI BACHHU SINGH, WORKMAN AND THE MANAGEMENT OF M/S PUNJAB INDUSTRIES, FARIDABAD

Present :—

Shri Bachhu Singh, workman concerned with Shri Hari Singh Yadav for the workman.

Shri R. C. Sharma & Shri W.C. Sharma for the management.

AWARD

By order No. ID/FD/81-76/34859, dated 25th July, 1978, the Governor of Haryana, referred the following dispute between the management of M/s Punjab Industries, Faridabad and its workman Shri Bachhu Singh, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Bachhu Singh was justified and in order ?
If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and settled their dispute, according to which the management shall pay a sum of Rs. 1,200 to the workman in addition to his amount of bonus for the year 1977-78 and other dues and the payment of all this amount shall be made to the workman by 18th September, 1978.

In these circumstances, I answer the reference and give my award that the workman is entitled to receive from the management a sum of Rs. 1,200 only and his other dues and bonus amount for the year 1977-78 and on payment of all this amount to the workman, the termination of services shall be deemed justified and in order. The workman is not entitled to any other relief.

NATHU RAM SHARMA,

Dated, the 19th September, 1978.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 884, dated the 21st September, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-3 Lab-78/8740.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Sasjiv Enterprises, 12/2, Mathura Road, Faridabad:—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 45 of 1977

between

SHRI SATPAL SINGH, WORKMAN AND THE MANAGEMENT OF M/S. SANJIV ENTERPRISES, 12/2, MATHURA ROAD, FARIDABAD.

Present :

Shri Sagar Ram Gupta, for the workman.

Shri D. C. Bhardwaj, for the management.

AWARD

By order No ID/19698, dated 19th May, 1977 the Governor of Haryana, referred the following dispute between the management of M/s. Sanjive Enterprises, 12/2, Mathura Road, Faridabad and its workman Shri Satpal Singh, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Satpal Singh was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 3rd January, 1978:—

- (1) Whether the workman left the service of the management of his own and received all his dues in full and final settlement?
- (2) Whether the workman is employed elsewhere gainfully?
- (3) If issue No. 1 is not proved in favour of the management, whether the termination of services of the workman was justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the management. The management examined their Sole Proprietor Shri Kuldip Singh Sahni as M.W. 1 who stated that the workman was appointed sometimes in September or October, 1973 and the workman left the job on 13th September, 1976 and thereafter he was marked absent upto 30th September, 1976. He absented himself from 3rd September, 1976 to 9th September, 1976 but had taken leave. His absence was adjusted against leave and therefore he was marked leave from 3rd September, 1976 to 9th September, 1976 and he has received all his dues in full and final settlement totalling to Rs. 230 only and has signed in

their register. The remark "Full and final settlement" was in his hand writing in the register. He proved his comments before the Conciliation Officer Ex. M/1. He further stated that the workman got some employment under M/s Rani Tubes and Steels Faridabad who were his competitor. He requested that concern to issue a certificate to that effect and then that concern issued a certificate, photostat copy whereof is Ex. M-2 and that the workman left his job, when he had ordered to comply with. In cross examination he stated that the workman absented on 14th September, 1976, without any prior intimation. The workman was a Forman and was getting Rs 500 per mensem, as wages, and he had got only four workmen in his factory at that time. He has only 6/7 machines in his factory. In the month of September 1976, there were two other workmen working in his factory named Shri Ram Kishan, Welder, and Shri Shokat Ali, Fitter. One Chowkidar Shri Khazan Singh was also employed. He further admitted that he never wrote any letter to the workman calling him back on duty when he went leaving his service. The management closed their case.

Then the case was fixed for the evidence of the workman. The workman examined one Shri Shiv Dhari as W.W. 1 who stated that the workman was working with the management. He had gone to the factory of the management for some work as he usually had to go there in connection with some work of M/s Ganga Engineering. It was on 12th October, 1976 that the management told the workman in his presence that he did not want to keep the workman in his service and the workman might go away after receiving his dues and did not tell any reasons for terminating his service. He further said that the Proprietor of M/s. Ganga Engineering and of this management were having cordial relations and sometimes proprietor of Ganga Engineering used to take work from Shri Satpal Singh after obtaining permission from his employer. In cross examination he stated that whenever there was such work in M/s. Ganga Engineering Works which they could not do, then their proprietor used to call Shri Satpal Singh taking permission from his employer and it was happening very generally and he was also attending M/s. Sanjiv Enterprises so often. On 12th October, 1976, Shri Satpal Singh was there in the factory named Sanjiv Enterprises in addition to 10/12 other workmen. Then the workman examined himself as WW 2 who stated that he had seven years service at his credit and the

management terminated his services without any fault of his. He had gone on leave for a month and the employer management engaged his Assistant on his post and terminated his services on 12th October, 1976 without assigning any reasons even though was requested by him to disclose the reasons. There were about 25/26 workmen working in this factory and the work still goes on. He admitted that he worked for 5/6 months in the factory named Rani Tubes and Steels. He further stated that after his proving service in M/s. Rani Tubes and Steels, he remained un-employed and admitted that the management paid to him a sum of Rs 230 on 12th October, 1976 including his earned leave wages and for 5/6 days leave from 4th/5th October, 1976 to 10th October, 1976. He was paid for 12th October, 1976 also. In cross examination he stated that Shri Chawala the Manager had left the service of the management 3/4 months prior to his service were terminated. He further admitted that after Shri Chawala, there was no Manager, the proprietor used to mark attendance but in his absence, the workman used to mark attendance and that he was receiving Rs. 650 per mensem as wages from Rani Tubes and Steels and he was prepared to work with the management. He denied that he had got some job at Sonapat and closed his case.

I have gone through the evidence of the parties and have heard their arguments. I, now, give my finding issuewise.

ISSUE NO. 1:

The workman has produced some documents Ex. M-3 to M-7. There are Bills and receipts from Transporters. They have no bearing on the issues. The management has placed on file only the photostat copy of the certificate which M/s. Rani Tubes and Steels had issued to them stating that the workman remained in their service from 1st November, 1976 to 16th June, 1977 at monthly salary of Rs 650 and the workman left that service. M/s. Rani Tubes and Steels have issued this certificate to M/s. Sanjive Enterprises at their request. M/s. Rani Tubes and Steels have not issued this certificate to the workman. This certificate is not proved by M/s. Rani Tubes and Steels but the workman himself has admitted that he worked with M/s. Rani Tubes and Steels Faridabad during the period and at the wages mentioned in it. This certificate is, therefore, Ex. M-2. The management have produced no document, nor any attendance register, leave

register or any kind of document. I can not believe the oral statement of the Proprietor of the management that the workman himself left the job on 13th September, 1976. The workman got job with M/s. Rani Tubes and Steels, Faridabad on and from 1st November, 1976, i.e., after one month and 18 days. It is not according to management intelligible as to why and how the workman himself could have left the job, as thereafter he would have remained un-employed and he has remained un-employed for one month and 18 days as for the management after his services were terminated on 13th September, 1976. After consideration and discussions, of evidence I do not find issue No. 1 in favour of the management. I therefore, decide issue No. 1 against the management.

ISSUE NO. 2:

There is Ex. M-2 on the file proving that the workman was gainfully employed from 1st November, 1976 to 16th June, 1977 at a monthly salary of Rs 650 per mensem and he left that service of his own will. The workman has also admitted that he was gainfully employed with that concern for the said period and at the said rate of wages. I, therefore, hold that the workman was gainfully employed with another employer from 1st November, 1976 to 16th June, 1977 at a monthly wage of Rs 650 per mensem and left that service of his own will.

ISSUE NO. 3:

Issue No. 1 has been decided by me against the management. The management could not give any cogent reason justifying the termination of services of the workman concerned. I, therefore, hold that the termination of services of the workman was neither justified nor in order.

As far as relief is concerned, I have to view the employment of the workman with another employer from the period from 1st November, 1976 to 16th June, 1977, at a monthly wages of Rs. 650 per mensem. With this management the workman was employed at a monthly wage of Rs. 500 per mensem. With another employer after termination of services by this management, he got a job of Rs 650 per mensem after 18/19 days. Here is also a controversy. the workman stated that his services were terminated by the management on and from 12th October, 1976, whereas the management has stated that the workman

left the service on, and from 13th September, 1976, but here I have to take the statement of the workman. The workman has so stated in his demand notice, his claim statement and in his own statement on S.A. that his services were terminated by the management on and from 12th October, 1976 and he received payment upto 12th October, 1976. Therefore, I find that the services of the workman were terminated on and from 12th October, 1976. Ex. M-1 reads that the workman left that job with another employer of his own will. This goes against the workman. Why he left that other job when he was getting a sum of Rs. 650 per mensem as wage whereas formerly he was getting Rs 500 per mensem with this management. That employment was a beneficial employment. The workman admitted that he was employed with that another employer named M/s. Rani Tubes and Steels from 1st November, 1976 to 16th June, 1977, at a monthly wage of Rs. 650 per mensem and the same factory testified to it by Ex. M-2. Ex. M-2 further reads that the workman left that service at his own will. The workman has nowhere stated that he did not leave that service, where he was getting Rs. 650 per mensem as wage, of his own will. He had not stated that another employer named Rani Tubes and Steels, where he was gainfully employed terminated his services. The fact described in Ex. M-2 that the workman left the service of M/s. Rani Tubes and Steels of his own will goes un-rebutted. Rather the workman himself had stated that he gave up that service of M/s. Rani Tubes and Steels in May or June, 1977. This act on the part of the workman does not entitle him to full back wages. In these circumstances, I think that if the workman is paid half back wages minus the wages that he received from M/s. Rani Tubes and Steels, it would be justiceable. I, therefore, decide issue No 3 accordingly. As the termination of services of the workman concerned was unjustified and the workman was burdened to bear the expenses of this litigation by the act of the management, the management should pay the cost of this litigation also to the workman. This case has proceeded for about 2 years. I, therefore, assess the cost of this litigation at Rs 200 only.

By answering this reference, I give my award that the termination of services of Shri

neither justified, nor in order. He is entitled to reinstatement with continuity of service and with half back wages minus the wage that he received from M/s. Rani Tubes and Steels for the period from 1st November, 1976 to 16th June, 1977, at a monthly rate of Rs 650 per mensem plus the cost of this litigation of Rs 200 only.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 14th September, 1978.

No. 881, dated the 21st September, 1978
Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-3 Lab-78/8741.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. K. Streetlite Electric Corporation Ltd., Faridabad:—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 50 of 1976

Between

SHRI AYODHIA NATH, workman and the management of M/s K-Streetlite Electric Corporation, N.I.T., Faridabad.

Present :

Shri R. N. Roy, for the workman.

Shri R. C. Sharma, for the management.

AWARD

By order No. ID/FD/926-B-75/6853, dated 13th February, 1976, the Governor of Haryana referred the following dispute between the management of M/s K-Streetlite Electric Corporation, N.I.T. Faridabad and its workman Shri

in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the dismissal of Shri Ayodhia Nath was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 9th November, 1976:—

- (1) Whether the dismissal of the workman concerned was justified and in order? If not, to what relief, is he entitled?
- (2) Whether the present reference does not involved industrial dispute on the ground that a substantial number of workmen has not espoused cause?
- (3) Whether Shri Ayodhia Nath is not a workman?
- (4) Whether the previous award operates as *res judicata* to the present reference?
- (5) Whether the reference is belated? If so, to what effect?
- (6) Whether the Government was bound to express the basis of their opinion?

The case was fixed for the evidence of the management. The management examined their Ex-Factory Manager Shri K. C. Kohli as M.W. 1, who had held the enquiry and Shri R. C. Sharma as M.W. 2 and then closed their case.

Then the case was fixed for the evidence of the workman who examined himself and closed his case.

Arguments were then heard. I now give my finding issuewise.

First of all, I should decide issue Nos. 2 to 6. Therefore, I take up these issues.

Issue No. 2.

The demand was raised by the Secretary of Faridabad Engineering Workers Union. The demand notice is dated 6th June, 1967. By this demand notice, the Secretary of the said workers union raised the demand regarding dismissal of Sarvshri Hari Om and Ayodhia Nath and demanded the reinstatement of these employees. Thus the union has raised the demand. Although the demand has not been raised by the workman himself but the union had raised the demand. The representative for the management argued that

the union had raised a joint demand of two workmen, hence it requires espousal and cited 1961-I-LLJ-504, 1971-II-LLJ-25, 1975-I-LLJ-page 293, 1975-II-LLJ page 168, 1974-Labour Industrial cases-420. He also cited 1968-I-LLJ-834. 1968-I-LLJ-834 is not relevant to this case. I think when the dispute had been taken up by the union espousal by a substantial number of workman is not essential. I, therefore, decide issue No. 2 against the management.

ISSUE No. 3.

Shri Ayodhia Nath is workman. There is nothing on record to prove that Shri Ayodhia Nath is not a workman. I, therefore, decide issue No. 3 against the management.

ISSUE No. 4.

The previous alleged, award was not an award in the eye of law, as the same has been quashed by the Hon'ble the Punjab and Haryana High Court, being given by an authority not legally and validly appointed. That award has been held by the Hon'ble the High Court for Punjab and Haryana as given by an officer without jurisdiction. That award in the eye of law is a nullity. That can never operate as *res judicata*, as it is not given by competent authority. I, therefore, decide this issue accordingly.

ISSUE No. 5.

The representative for the management has cited 1964-II-LLJ-120. That case is not relevant to this reference. In that case the workman had reported for duty much late. Here there is a question of delay in reference. This reference is not belated even, as the Hon'ble the High Court for Punjab and Haryana quashed the impugned award on 2nd September, 1974. Thereafter, the union after coming to know of the said judgement of the Hon'ble the Punjab and Haryana High Court moved the Government for reference,—vide their letter dated 12th November, 1975 and then the Government made this reference,—vide their order dated 13th February, 1976. I, therefore, decide this issue against the management.

ISSUE No. 6.

The Government was not bound to express the basis of their opinion. The representative for the management has not brought any ruling on this point to my notice. I, therefore, decide issue No. 6. against the management.

Now I take up issue No. 1 which is an issue on merits.

ISSUE No. 1.

M.W. 1 has proved enquiry proceedings and its finding. I have gone through the enquiry proceedings. The enquiry officer has examined as many as 7 witnesses Sarvshri R. P. Mohindra, Ho Ram, Chowkidar, Ishwar Singh, Time keeper,

Balwant Singh, Sham Lal and Dharam Chand. All deposed that the workmen raised slogans which were improper, derogatory, abusive and insulting. The slogans are given hereunder:—

"Malik Ka Chamcha be ruined. Malik Ki Shoes Lickers be ruined, peoples of oil and Tobacco be ruined, those who sell themselves for two pies be ruined Dogs, who get the flour of the owners grinded, be ruined and that he threatened other workmen." The workman threatened one Shri Ho Ram, the Chowkidar that he shall break the arms of Ho Ram alleging that Ho Ram has made the flag downwards. All the witnesses for the management corroborated the charges leveled by the management against the workman regarding the derogatory, abusive and insulting slogans and threatenings. The workmen has also examined in the enquiry proceedings himself as the defence witnesses and one another Shri Madan Lal. Shri Madan Lal stated before the enquiry officer that he was not present at the gate meeting held in the evening, as he and Shri Ayodhia Nath worked in different shifts but he could come to know the slogans raised at the gate meeting afterwards. He stated that he did not hear those slogans but that he and Shri Ayodhia Nath worked in different shifts from 11th April of that year and afterwards. Shri Madan Lal was asked whether he was present at the gate meeting on 11th April to which he replied that he did not remember anything. He even could not say whether Ayodhia Nath was present in the meeting or not, as he did not remember that. This witness did not help the workman in the enquiry proceedings. The enquiry proceedings are signed by the workman. Cross-examination of witnesses for the management is at length. The defence evidence is also there. The enquiry officer has given full opportunity of cross-examining the witnesses for the management and for the leading defence evidence. After examination of the workman and of Shri Madan Lal the defence witness, the workman had stated that he has not to give any other witness.

The enquiry officer has believed the statements of the witnesses for the management. The workman stated at the enquiry that he was present at the gate meeting, raised slogans but ordinary trade union slogans. The defence witness Madan Lal could not be of help to him at the enquiry. The enquiry officer has held the enquiry in accordance with the principle of natural justice. His finding is based on evidence. He has discussed the evidence at the enquiry proceedings in his finding. His finding is not based on "no evidence". Therefore, his finding is not perverse. The enquiry officer found the workman guilty of the charges of acts of misconduct against the workman. The acts of misconduct amounts to insubordination, as well as subversive

of discipline. The language used by the workman is derogatory, insulting and abusive too. In these circumstances, the management was within their right to dismiss the workman concerned. I, therefore, decide issue No. 1 in favour of the management.

While answering the reference, I give my award that the termination of services of Shri Ayodhia Nath, the workman concerned, was justified and in order. He is not entitled to any relief.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 18th September, 1978.

Endorsement No. 879, dated 21st September, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-3-Lab-78/8744.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of dispute between the workmen and the management of M/s. Micro Precision Industries, Gurgaon.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER INDUSTRIAL,
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 145 of 1977.

between
SHRI RAM KUMAR, WORKMAN AND
THE MANAGEMENT OF M/S. MICRO
PRECISION INDUSTRIES, GURGAON.
Present:—

Shri Sharda Nand, for the workman.
Shri K. D. Kulhatkar, for the management.

AWARD

By order No. ID/GG/234-77/39420,
dated 9th Sept., 1977, the Governor of

Haryana, referred the following dispute between the management of M/s. Micro Precision Industries, Gurgaon and its workman Shri Ram Kumar to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Ram Kumar was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 24th November, 1977:—

- (1) Whether the workman abandoned the services of his own accord?
- (2) If issue No. 1 is not proved, whether the termination of services of the workman was justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the management. The management examined Shri K. S. Verma, their Manager as M.W. 1 and closed their case.

Then the case was fixed for the evidence of the workman. The workman examined himself as W.W. 1 and closed his case.

M.W. 1 has stated that the workman absented himself from 16th May, 1977 and had received his dues fully. He stated that they were prepared to take back the workman on duty but shall not pay for the period of absence, rather the management wanted the workman for their work. He had brought the payment of wages register and attendance register. The workman stated that his services were terminated on 16th May, 1977, and he gave the demand notice to the management on 17th May, 1977. He attended the gate of the factory on 16th May, 1977. In cross-

examination the workman stated that the management had one grievance that he was demanding wages every month and the management used to obtain his signatures on payment of wages even for one or two months in advance and his wages for one and a half months was still due from the management. This is a very typical case. Only one document is on the file which is conciliation proceedings. Exhibit M-1. This is of no help, as it witnesses that the workman stated that the management terminated his services on and from 16th May, 1977 and the management stated that the workman abandoned his job on 16th May, 1977. The management is still prepared to take the workman on duty. The abandonment or termination dates from 16th May, 1977. When the workman gave demand notice on 17th May, 1977 i.e. on the next following day if cannot be inferred that it was the workman who abandoned his job. Had it been so, the workman would not have given demand notice on 17th May, 1977, when he alleged termination of his service on 16th May, 1977 a day earlier. Had the workman taken some considerable time in giving demand notice, it could or could not be inferred that the workman had abandoned his job by remaining absent. In these circumstances, I decide issue No. 1 against the management.

ISSUE No. 2

The justifiability of termination of services of the workman has neither been alleged nor proved by the management. I, therefore, decide this issue against the management.

Considering the fact that the management are prepared to take back the workman on duty, this is a special case in which half back wages would meet the ends of justice, as the management had stated that they were ever prepared to take the workman on duty, even they stated before the Conciliation Officer that they did not terminate the services of the workman, rather he himself had abandoned.

While answering the reference, I give my award that the termination of services

of Shri Ram Kumar, the workman concerned was neither justified nor in order. He is entitled to reinstatement with continuity of service but with half back wages.

Dated the 19th September, 1978.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 877, dated 21st September, 1978.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 13th October, 1978

No. 11(112)-3Lab-78/8960.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court Rohtak, in respect of the dispute between the workman and the management of M/s. Tej Fabrics, Sanoli Road, Panipat.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 195 of 1978

between

SHRI ISHWAR DASS AND OTHERS WORKMEN AND THE MANAGEMENT OF M/S TEJ
FABRICS, SANOLI ROAD, PANIPAT

Present :—

Shri Raghbir Singh, for the workman.

Nemo for the management.

AWARD

By Order No. ID/KNL/30-78/33860, dated the 19th July, 1978, the Governor of Haryana, referred the following dispute between the management of M/s. Tej Fabrics Sanoli Road, Panipat and its workman Shri Ishwar and others, to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of the following workmen is justified and in order ? If not, to what relief is he entitled ?

1. Shri Ishwar Dass.
2. Shri Rajbir.
3. Shri Brij Paul.
4. Shri Gitam.
5. Shri Om Parkash.
6. Shri Piare Lal,

On receipt of order of reference, notices were issued to the parties. The parties appeared. The representative for the workman stated that the dispute had been referred to arbitration and therefore, he wants to withdraw his dispute. Withdrawal was permitted. While answering the reference I give my award that the dispute has been referred to the Arbitrator and now it is not proper to give an award on merits. The Arbitrator shall give his award.

Dated 19th September, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2708, dated 29th September, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 11(112)-3Lab-78/9131.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947) Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workmen and the management of M/s. Avon Services (P) Ltd., Ballabgarh.

BEFORE SHRI NATHU SHARMA, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD

Complaint No. 33 of 1972 under section 33-A of the Industrial Disputes Act, 1947.

between

SHRI SHER KHAN MEHMOOD ETC. AND THE MANAGEMENT OF M/S. AVON
SERVICES (P) LTD., BALLABGARH

Present.—Shri Onkar Parshad, for the workman.

Shri H. R. Dua, for the management.

AWARD

The complainants filed this complaint under section 33-A of the Industrial Disputes Act, alleging contravention of section 33 of the Industrial Disputes Act, on the part of the management. There are 17 complainants in this complaint. They alleged that the management retrenched them on 30th November, 1972, whereas a regular reference was pending before the Industrial Tribunal. They alleged in the complaint that the retrenchment was ostensible whereas actually the workman have been victimised. Notices of the application was sent to the management who appeared and filed written statement. Thereupon the workmen filed rejoinder. From the pleadings of the parties, the following issue was framed by my learned predecessor on 17th July, 1973.

Whether there has been a contravention of the provisions of section 33 of the Industrial Disputes Act, 1947, as alleged by the applicants? If so, what relief are they entitled to?

The case was fixed for the evidence of the complainants. The management had objected that the name of all the complainants were not given in the title of the complaint and the title mentioned the name of the complainants as Sher Khan Mehmood etc., although all the complainants had signed the complaint. One more issue was framed in this complaint on 14th February, 1977 as issue No. 2 reproduced below.

(2) Whether the present complaint of the workmen is barred by the principle of res judicata?

The case was fixed for the evidence of the complainants. There was a regular reference bearing number 121 of 1973 and 6 of 1974 regarding justifiability of retrenchment of 7 workmen. This dispute was referred to this Tribunal,—vide order of reference dated 24th January, 1974. The complaint had been filed much earlier. It is dated 1st December, 1972. Ordered, issue notice to the parties was made on 21st December, 1972. My learned predecessor has ordered on 1st May, 1974 that this complaint be linked with reference No. 121 of 1973 and it is of 1974. Reference No. 121 of 1973 was referred to this Tribunal,—vide the order of reference, dated 2nd July, 1973. Then the complaint was fixed for further proceeding.

Thereafter the representative for the complainants stated that the regular reference did not involve all the complainants. This complaint was not consolidated with the abovesaid reference. My learned predecessor has only ordered to link this complaint with the said reference. As this complaint was by 17 workmen and thus reference involve only 12 complainants, and the references were made later than the complaint was filed by the complainants, The representative for the workman had stated that the number of complainants is more than the number of workmen involve in the references and therefore, the complaint should proceed.

The complainants examined their representative as their witnesses who stated that on the point of pendency of the dispute he had applied for attaching the file of the reference with this complaint and they were attached. He gave the names of the complainants also. He stated that in this complaint there are 17 complainants and the Government has referred the dispute regarding justifiability of the retrenchment in respect of 10 workmen-complainants in this complaint.

The representative for the management stated that retrenchment does not fall under section 33 then the case was fixed for arguments. Then the representative for the management moved an application that this complaint should be consolidated with the above said reference. The representative for the workmen had no objection. Then this complaint was consolidated with the above said reference and then thereafter this complaint was fixed for the evidence of the management.

On 27th March, 1978 neither the management was present nor their representative nor the evidence of the management was present, hence the evidence of the management was closed.

The case was fixed for arguments on 14th April, 1978. But 14th April, 1978 was declared Public Holiday. Therefore, again notices were sent to the parties for arguments. Thereafter again notices were issued to the parties as the notices were issued to the parties as the notices were not served. On next date of hearing, the representative for the workmen conducting the case did not appear but he had sent another man praying for payment. Adjournment was granted. Thereafter arguments were heard. Now I give my finding issuewise.

Issue No. 1.

The complainants complaint is dated 1st December, 1972. First order whereon for issuing notices was made on 21st December, 1972. The complainant alleged that the management retrenched them on 30th November, 1972. Order of reference regarding justifiability of retrenchment of 7 workmen bearing number 6 of 1974 is dated 24th January, 1974. and the order of reference bearing number 121 of 1973 is dated 2nd July, 1973, therefore, on the date of retrenchment, these references were not pending, hence also there is no contravention of section 33 and hence also the complaint under section 33-A is not maintainable. Moreover the contravention during pendency of dispute does not involve retrenchment. Section 33 does not apply to retrenchment which has been provided by law. Section 33 relates to alteration of service condition or to discharge or dismissal by way of punishment for misconduct. There are no allegations in the complaint nor any evidence or proof that the workmen were dismissed by way of punishment for misconduct. The retrenchment has terminated the service, hence alteration in condition of service does not apply to the facts of this case. Alteration of condition of service applies till the workmen is in service. Therefore, the complaint does not fall under section 33 (1) (a) nor it fall under section 33 (1)(b). Therefore, there is no contravention of section 33, in support of this decision of mine, there are various authorities such as 1963-I-LLJ-212, 1957-I-LLJ-253, 1971(22)FLR-152, 1972-I-LLJ-501, I, therefore, decide issue No. 1 against the complainants.

Issue No. 2.

There is no tota of evidence on the file on issue No. 2. Therefore, I decide this issue against the respondent management.

As a result of my finding on the issue, I dismiss this complaint. No order as to cost.

NATHU RAM SHARMA,

Dated 21st September, 1978

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 898, dated 3rd October, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)3Lab-78/9132.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Crystic Resins India (Private) Limited, 19/6 Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 59 of 1978

between

THE WORKMAN AND THE MANAGEMENT OF M/S CRYSTIC RESINS INDIA (PRIVATE)
LIMITED, 19/6, MATHURA ROAD, FARIDABAD

Present.—

Shri Sagar Ram Gupta, for the workman.

Shri R. C. Sharma, for the management.

AWARD

By order No. ID/FD/917-B-76/8570, dated 23rd February, 1978, the Governor of Haryana, referred the following dispute between the management of M/s Crystic Resins India (Private) Limited, 19/6, Mathura Road, Faridabad and its workmen, to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 the Industrial Disputes Act, 1947.

Whether the workman are entitled to grant of bonus for the year 1976? If so, with what details?

On receipt of the order of reference, notice were sent to the parties. The parties appeared.

Today Shri Sagar Ram Gupta, the representative for the workman stated that the dispute has been settled as per settlement copy whereof was produced by him. The settlement was admitted by the representative for the management also. The settlement is Ex. M.W. 1. I have seen the settlement, it is just and fair. According to the settlement, the management have agreed to pay bonus at the rate 10% out of which they had already paid at the rate of 4% for the year 1975. The management shall bear after pay additional bonus to the workmen at the rate of 6%, as 4% bonus had already been paid by them. Although the reference is for the grant of bonus for the year 1975, but both parties have agreed that the bonus for the year 1976 shall be paid to the workmen at the rate of 11%. The workmen have already received bonus for the year 1976 at the rate of 8.33%, and therefore bonus at the rate of 2.67% for the year 1976 shall be paid by the management to their workmen. Further the settlement has provided that the bonus for the year 1977 shall be paid at the rate of 12%, although bonus at the rate of 8.33% had already been paid by the management to the workmen and therefore bonus for the years 1977 shall be paid by the management to their workmen at the rate of 3.67% more.

The additional bonus at the of 6% for the gear 1975 shall be paid to the workmen by the management in the month of September, 1968 and the bonus for the year 1976-77 at additional rate of 2.67% and 3.67% respectively shall be paid to the workmen by the management by 20th October, 1978. The workmen have further agreed per this settlement that the workmen shall withdraw their other demands if any in this reference or in other reference No. 16 of 1976 in addition to bonus. The workmen have further agreed that in future if any dispute arose, the workmen shall first appeal to the Managing Director of the company of the management prior to raising the dispute before Labour-Cum-Conciliation Officer and they shall raise that dispute when the dispute was not settled by the said Managing Director satisfactorily. The workmen have further assured the management that they shall perform their duty efficiently and earnestly and shall maintain the production as per previous record and shall also maintain discipline. The settlement is just and fair and is in the interest of harmonious relation in the industry.

While answering the reference, I give my award that the bonus the year 1975 shall be paid by the management to the workmen in addition to the previously paid at the rate of 6%. The management shall also pay bonus for the year 1976 to their workmen in addition to already paid at the rate of 2.67% and similarly the management shall pay bonus for the year 1977 to their workmen at the rate of 3.67% in addition to already paid previously. This award of mine is as per settlement arrived at between the parties.

Dated the 21st September, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal Haryana,
Faridabad.

No. 897, dated the 3rd October, 1978.

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Industrial Tribunal, Haryana,
Faridabad.

G. V. GUPTA, Secy.

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